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19 UNITED STATES DISTRICT COURT  
 20 NORTHERN DISTRICT OF CALIFORNIA

15 DAVID KECK,	) Case No.: CV 08-1219 CRB
16 Individually and on behalf of all other similarly	)
17 situated,	) <b><u>CLASS ACTION</u></b>
18 Plaintiff,	) <b><u>UPDATED 7/1/08</u></b>
19 vs.	) <b><u>JOINT CASE MANAGEMENT</u></b>
20 BANK OF AMERICA, a Delaware Corporation;	) Date: July 7, 2008
21 CENTRAL STATES INDEMNITY CO. OF	) Time: 8:30 a.m.
22 OMAHA, a Nebraska Corporation; CSI	) Courtroom 8
23 PROCESSING, LLC, a Nebraska Company, TRG	)
24 CUSTOMER SOLUTIONS, INC. d/b/a/	)
25 TELESPECTRUM,	)
26 Defendants.	)

1     1.     Introduction:

2                 This case involves alleged wrongful telemarketing practices by Bank of America  
3 ("BOA") and its telemarketing agents in connection with the sale of debt cancellation contracts to  
4 BOA credit card customers. Plaintiff David Keck alleges that defendants engaged in unlawful  
5 telemarketing practices which invaded his privacy and resulted in unauthorized charges to his  
6 credit card account. Telemarketer TRG Customer Solutions, Inc. ("TRG") recorded portions of  
7 the telemarketing transaction, and the transcript is incorporated into plaintiff's complaint herein.  
8 Defendants deny plaintiff's allegations.

9                 The parties filed their initial Joint Case Management Statement on May 30, 2008. This  
10 Statement updates the Court on developments since then.

11     2.     Jurisdiction and Service:

12                 Plaintiff added TRG as a defendant and served it effective June 16, 2008. TRG has not  
13 yet appeared, but has agreed to participate in this case management conference through its  
14 counsel.

15                 On June 30, 2008, BOA associated in additional counsel, and plaintiff stipulated that BOA  
16 could file an amended answer.

17     3.     Motions:

18                 **Prior motion:** The Court granted in part and denied in part BOA's Motion to Dismiss on  
19 April 15, 2008.

20                 **Anticipated motions:** Class Certification, then defendants' dispositive motions.

21     4.     Update to Disclosures: The original parties have completed initial Rule 26 disclosures  
22 and exchanges, and will provide the same to TRG upon request. A date needs to be set for TRG's  
23 Rule 26 disclosure and exchange.

24     5.     Update to Discovery:

25                 **Plaintiff's Statement:** Plaintiff has reviewed various documents produced by BOA,  
26 including the telemarketing scripts and debt cancellation product program guides. Plaintiff  
27 anticipates pre-certification discovery aimed at discovering and establishing the nature and scope  
28 of the BOA debt cancellation product programs; how they function within BOA and through third

1 parties; the amount and flow of revenues from these programs to the various defendants; and the  
2 identity of and complaints by absent class members. Plaintiff will also seek to review audio  
3 recordings of other telemarketing calls made on behalf of BOA to sell debt cancellation products.

4 **Defendants' Statement:** Defendants intend to take plaintiff Keck's deposition and to  
5 request production of all his relevant documents within the next 60 days. Defendants may,  
6 thereafter, serve contention interrogatories.

7 **6. Settlement and ADR:**

8 The parties have agreed to, and the Court has ordered, private mediation through JAMS  
9 prior to the filing of the motion for class certification. The parties expect to complete ADR by  
10 the end of October, 2008.

11 **7. Scheduling:**

12 The parties request that the Court at this time schedule a date for completion of ADR and  
13 for the briefing and hearing of plaintiff's motion for class certification, and that the schedule for  
14 completion of discovery and trial be set at a subsequent Case Management Conference following  
15 the Court's decision whether or not to certify the class. In order to allow sufficient time for  
16 discovery and settlement discussions, the parties propose the following dates:

17 Completion of ADR: October 31, 2008

18 Plaintiff to file motion for class cert: January 12, 2009

19 Defendants' opposition,

20 If no expert testimony: February 2, 2009

21 With expert testimony: March 2, 2009

22 Plaintiff's reply,

23 If no expert testimony: February 16, 2009

24 With expert testimony: March 16, 2009

25 Hearing on class cert,

26 If no expert testimony: March 13, 2009

27 With expert testimony: April 3, 2009

1       8. **Disclosure of Non-Party Interested Entities or Persons** (Civil Local Rule 3-16):

2              This information has been received from all defendants except TRG.

3       9. **Other Matters:** The parties are unaware of any other matters which need to be addressed  
4 at this time.

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6 DATED: July 1, 2008

7 CHAVEZ & GERTLER LLP  
8 BRAYTON PURCELL LLP

SEVERSON & WERSON, a professional corp.  
9 KELLEY DRYE & WARREN LLP

10 By: Nance Becker  
11 Nance F. Becker  
12 Attorneys for Plaintiff David Keck

By: /s/ Jan T. Chilton  
13 Jan T. Chilton  
14 Attorneys for Defendant Bank of America, N.A.

15 SHARTSIS FRIESE LLP

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16 By: /s/ Robert Ward  
17 Robert Ward  
18 Attorneys for TRG Customer Solutions, Inc.  
19 d/b/a Telespectrum

By: /s/ Paul E. Gaspari  
20 Paul E. Gaspari  
21 Attorneys for Defendants Central States  
22 Indemnity Co. of Omaha and CSI Processing  
23 LLC

24 **ECF Certification**  
25 I, Nance F. Becker, certify that concurrence in the filing of the Case Management  
26 Statement has been obtained from Jan T. Chilton, Robert Ward, and Paul E. Gaspari on behalf of  
27 Defendants.

28 Dated: July 1, 2008

CHAVEZ & GERTLER LLP

29 By: Nance Becker  
30 Nance F. Becker